

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT COURT

AT HUNTINGTON

TIMOLIN HARRIS for
MICHAEL T. HARRIS, deceased,

Plaintiff,

v.

CIVIL CASE NO.: 3:08-1426

MICHAEL J. ASTRUE,
Commissioner of Social Security,

MEMORANDUM ORDER

This matter is presently pending before the Court on plaintiff's motion to remand or in the alternative for judgment on the pleadings and defendant's brief in support of judgment on the pleadings. Michael T. Harris, the claimant, died on May 12, 2008, one month following the decision of the administrative law judge. The death certificate, certified by the Medical Examiner, indicates that an autopsy was performed and that the immediate cause of death was hypertensive cardiovascular disease. While the facts presented are unusual and may not satisfy precisely the usual requirements for sentence six remands,¹ the court believes that this new evidence should be considered by the Commissioner, particularly in light of the impairments, both severe and non-severe, which were subject of findings by the administrative law judge.

¹See, 42 U.S.C. § 405(g); Borders v. Heckler, 777 F.2d 954, 955 (4th Cir. 1985). The evidence, however, is clearly new, the court believes it is material if ultimately related back to the date of the administrative law judge decision and good cause exists for its lack of incorporation into the record.

Accordingly, the Court grants plaintiff's motion to remand, remands this case to the Commissioner pursuant to the Sixth Sentence of 42 U.S.C. § 405(g) for further proceedings, and it is so **ORDERED**. Pending additional action by the parties following the administrative proceedings, the Clerk is directed to remove this case from the Court's active docket.

The Clerk is directed to transmit a copy of this Order to all counsel of record.

ENTER: May 28, 2009

A handwritten signature in black ink, reading "Maurice G. Taylor, Jr.", is written over a horizontal line. The signature is cursive and includes a small flourish at the end.

MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE